

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN STANLEY (STAN) FISHER**, on February 4, 2003 at 8:05 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Stanley (Stan) Fisher, Chairman (R)
Sen. Corey Stapleton, Vice Chairman (R)
Sen. Keith Bales (R)
Rep. Tim Callahan (D)
Rep. Carol C. Juneau (D)
Rep. Dave Lewis (R)
Sen. Trudi Schmidt (D)

Members Excused: None.

Members Absent: None.

Staff Present: Marian Collins, Committee Secretary
Brent Doig, OBPP
Todd Younkin, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: Department of Labor & Industry
Public Testimony, 1/30/2003
Executive Action: None

{Tape: 1; Side: A; Approx. Time Counter: 0.6 - 4}

Todd Younkin, Legislative Branch, presented budget information pertaining to the Department of Labor & Industry (DOLI). The first section lists the adjusted base and the changes made in the Joint Appropriations and Senate Finance Committees. The second section shows decision packages in the Executive Budget. The third section lists the unspecified reduction remaining if all decision packages are adopted for FY 2004 and 2005. Finally, the Legislative Fiscal Division (LFD) has listed DOLI issues of concern, and suggestions for addressing those issues. Also included in Exhibit 1 is the Department of Labor and Industry Program Prioritization.

EXHIBIT (jch24a01)

REP. LEWIS praised the LFD staffers for their thorough preparation of clear and concise documents for use during the Subcommittee hearings.

{Tape: 1; Side: A; Approx. Time Counter: 4.2 - 24.1}

Wendy Keating, Commissioner, Department of Labor and Industry (DOLI), stated that DOLI is a value-driven organization whose two main commitments are Montana business customers, and continuous improvement of the Department. **Ms. Keating** introduced the division administrators within DOLI, and presented the Subcommittee with a handout identifying DOLI's three primary funding sources. She noted that some funding also comes from fees and licensing.

Ms. Keating gave a brief history of the Reed Act, as well as the Employment Security Account (ESA). The Reed Act funding was distributed to states experiencing collapse of their employment service systems because of years of insufficient funding in their administrative funds. Like many other states, Montana is out of compliance in many areas in federal performance standards. Both Unemployment Insurance (UI) and Employment Services system are facing critical needs in their operating systems. It was taking up to eight weeks for claimants to get their first unemployment check. This delay meant that money was not back in that community and revolving at the local level, which is part of the point of the UI program. There were also concerns about the error rate and the overpayment rate, and the fact that there weren't sufficient resources to deal with fraud and abuse in the UI program. Unlike many states, Montana's unemployment trust fund is solvent and healthy.

Ms. Keating stated that the purpose of the ESA account is to maintain and support the services that are delivered through the local Job Service offices, and for the employment related services through the Labor Standards Bureau. ESA is funded through a tax assessed on employers based on employee's taxable wages, which amounts to 0.13%. Until 1998, ESA funding had stabilized enough to support the designated programs, at which time DOLI realized that there was not going to be sufficient money in the account to maintain services. This was partly due to diversion of funds for the previous ten years for different reasons such as putting money into the UI Trust Account, dealing with general fund shortfalls, and funding other programs. DOLI was faced with closing offices and cutting back services to employers. At that time, employers requested that DOLI appeal to the legislature to increase the assessment from .10% to .13%. Employers strongly supported that legislation and it passed. The only caveat requested by the employers asked that DOLI not try to expand the uses of this account.

The budget crisis of 2002 required that State agencies cut their budgets. As DOLI had just received the Reed Act money, it was identified as a solution to part of the problem. At that time, the Workforce Services Division programs that were under the general fund were moved under the ESA. The Workforce Services Division local office budget was reduced in the ESA funding category and backfilled with Reed Act dollars. This could be done because Reed Act money is to be spent on employment service administration (job services).

Ms. Keating stated that any further diversion of Reed Act monies would jeopardize Montana's ability to get back into compliance with the federal performance standards which could have very serious consequences. When a state is out of compliance, the federal government could take over the program and take away the tax credit that employers have on the federal unemployment tax, which currently is 5.4%.

Ms. Keating stated that the Health and Human Services Subcommittee is proposing to take \$3 million out of the ESA account for childcare. This is of particular concern of the Department because employers may see this as a lack of integrity on the part of DOLI and an inability to protect the fund.

{Tape: 1; Side: A; Approx. Time Counter: 24.2 - 30.2}

{Tape: 1; Side: B; Approx. Time Counter: 2.3 - 3.2}

SEN. STAPLETON asked where DOLI is out of compliance with the federal government. **Ms. Keating** stated that DOLI is out of compliance in the UI program in both the benefit side and tax collection side. The Reed Act dollars deal with the fraud and abuse, performance standards, and overpayment rates on the benefit side. Montana has the second-worse overpayment detection rate in the nation. There is a series of performance standards for the program that Montana is seriously violating. **Ms. Keating** stated that the Reed Act is federal unemployment insurance tax dollars released specifically to address deficiencies, and to administer improvements in the programs. **SEN. BALES** asked if the turnaround time for claims has improved since receiving the Reed Act money. **Ms. Keating** stated that claimants are now receiving their money within four to six weeks. One of the reasons for the increased workload in 2002 is due to the extended benefits that Congress authorized. A larger percent of unemployed people are drawing unemployment now than in the past, and they are staying on unemployment for a longer period of time.

EXHIBIT (jch24a02)

{Tape: 1; Side: B; Approx. Time Counter: 3.3 - 8.9}

Bob Rafferty, Bureau Chief, Research and Analysis Bureau, stated that the unemployment rate for Montana is below 4%, which reflects the total unemployed. The UI program addresses people who have had a work history and can draw benefits. Approximately, 25% of unemployed people have been drawing unemployment benefits. That percent is increasing. **Mr. Rafferty** stated that the current unemployment rate on Montana's reservations in 2001 was 12.4%.

{Tape: 1; Side: B; Approx. Time Counter: 9.5 - 30.5}

Ingrid Childress, Administrator, Workforce Services Division (WSD), presented the Subcommittee with handouts, and stated that WSD has innovative service designs and customer-focused initiatives that have won international attention, international awards, and national attention. The Montana WSD serves as a role model for program designs in other states. The mission of WSD is to develop and maintain a high quality workforce that both supports and enhances the economic health of Montana's communities.

Ms. Childress suggested possible options for meeting unspecified reductions as required by HB 2 Global Amendments. First, eliminate the Job Registry Program, Displaced Homemaker Program, and Apprenticeship and Training Grants. Secondly, reduce funding for the Jobs for Montana Graduate Program.

The state Job Registry Program was established to provide a labor exchange function for state employees who lose their jobs due to a reduction in force (RIF). It allows those employees an opportunity and priority to apply for state agency vacancy announcements. The level of funding in the Governor's budget is the bare minimum level necessary to provide Montana's statutory services required by the state Employee Protection Act. Without funding for this program, WSD would need legislation to relieve the Division of this responsibility.

Ms. Childress stated that the Displaced Homemaker Program was created to serve individuals who have been dependent upon either a relative or a spouse for income who have been maintaining a household and families and find themselves no longer with that support. The Program offers counseling, training, vocational counseling and other supportive services such as transportation, childcare, and clothing needed for interviews, in order to become reattached to the labor market, or to become attached to the labor market for the first time. Due to recent general fund reductions, the Program was closed in Great Falls.

The Apprenticeship and Training Program proposes a reduction in grants reflected in DP 12. This Program provides employer sponsors with grants to help offset the cost of providing on-the-job training for apprentices. If these grants are further reduced or eliminated, the full cost of the related instruction would be borne by either the apprentice or the employer sponsor. This could result in an extension in the duration of the apprenticeship completion time, it could reduce the number of apprenticeship agreements, and it would reduce the disposable income of those apprentices. Small, rural and urban businesses with a low overhead and small operating capital would be most negatively affected by any further reduction in the training-related grants.

There are currently apprentices in 53 of Montana's 56 counties. Graduates obtain nationally-recognized certifications or licenses to operate in specialized fields and are earning a wage at the same time they are completing their certificate. The registered apprentices collectively earned \$31 million in 2002 and paid nearly \$6 million in taxes. The WSD staff provides the direction, protection, and oversight for both the apprentices and their employer sponsors.

The Jobs for Montana's Graduate Program (JMG) assists approximately 900 at-risk high school students to stay in school, graduate and then successfully transition from school into work. The Program currently operates in 43 schools, including nine high schools on Indian reservations, and the Yellowstone Youth Academy. JMG curriculum is also available to the Youth Challenge Program in Dillon. JMG is based on a national model and the curriculum has been customized to suit Montana's most at-risk youth. The purpose of the Program is to keep students in their homes, in their schools and communities to help them finish high school, and move into either work opportunities, the military, or post secondary education. The Program is very cost effective because it receives local school district funding and some private donations. The cost per student is minimal when compared to other programs that assist youth once they've either dropped out of school and/or perhaps entered the correctional or welfare systems. Without the grants offered to schools to supplement JMG, the Program will not be able to continue to operate. If the Global Amendments are adopted, it is expected that the number of schools offering JMG will be reduced from 43 to 16. Approximately 90% of JMG students graduate from the Program.

Decision package 7001 describes the Executive recommendation providing the match for the Youth Challenge Program, which is administered by the Department of Military Affairs, be funded with \$1.1 million ESA funds per year, and that those expenditures in WSD be backfilled with Reed Act monies. Present law adjustment 12 allows continued payment for indirect costs, and it reduces the grants to apprenticeship sponsors by nearly \$77,000 for each year. Present law adjustment 18 allows WSD to continue a Natural Resource Worker Scholarship Grant Program which was created by Senate Bill 322 in the 2001 session.

EXHIBIT (jch24a03)

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 18.2}

SEN. BALES asked if there is federal money contributed to the JMG Programs on the Indian Reservations. **Ms. Childress** stated that there is no federal money supporting the JMG Program.

SEN. STAPLETON expressed concern about criminal offenders being eligible to receive services through the Displaced Homemaker Program, and asked that money be removed from the Program that is targeted for use by criminal offenders.

SEN. SCHMIDT asked why the Displaced Homemaker Program was discontinued in Great Falls. **Ms. Childress** stated that, at the time that they were asked to reduce the budget, DOLI looked at the current programs and identified other resources available to serve individuals. The Great Falls Displaced Homemaker Program was operated through the Job Service Workforce Center, and the Job Service felt that they could absorb those individuals in other programs.

CHAIRMAN FISHER asked why the ratio is one-to-one for apprentices in the Apprenticeship Program. **Ms. Childress** stated that the most important issues that dictate reasons for ratios are quality of training and safety of apprentices. However, there is flexibility in the system now where ratio waivers are available in some situations. Employer sponsor's concerns and national standards must be taken into consideration when establishing ratios.

{Tape: 2; Side: A; Approx. Time Counter: 18.5 - 30.9}

Mike Royer, Director, Youth ChalleNGe Program, read a letter of support from General Prendergast, Adjutant General for the State of Montana, for the Jobs for Montana's Graduates Program. The letter is entered as Exhibit 4.

EXHIBIT (jch24a04)

Penny McEvoy, Human Resources Department, Northwestern Energy, spoke in support of the Apprenticeship and Training Program. She stated that this is one program in Montana that works very well. It allows excellent training for individuals who then have a job in Montana and pay taxes. The Program does well in Montana because of the oversight of the Apprenticeship and Training Bureau. It is through the Bureau's efforts that these programs are reviewed, certified, upgraded if they need to be for quality and consistency, and provides registered, topnotch, highly skilled workforce for Montana. **Ms. McEvoy** appealed to the Subcommittee to continue funding the Apprenticeship Program. As an employer, this highly trained workforce is needed, and Montana needs to keep her kids here.

Bob Pavlovich, International Brotherhood of Electrical Workers #233, Butte, Montana, stated support for the Apprenticeship and Training Program. It provides a great workforce for the State of Montana. He asked that the Subcommittee look closely at continued funding for the Program.

Ken Stuker, Trustee, Helena School Board, stated that, prior to being on the School Board, he was a high school principal for sixteen years. He stated that kids need to see a connection between what they are doing and how it is relevant. The JMG Program provides that connection, and it provides direct service to students. The students who complete the Program have gone on to college and training, and become productive citizens in our society. **Mr. Stuker** urged continued funding for this Program as it is the best he has seen for helping kids in his sixteen years in administration. It makes a difference.

Jolene Glasoe, JMG Program Graduate, stated that the classes are intellectually stimulating. Without the Program, she would have dropped out, would be on welfare and food stamps, and wouldn't have anywhere to go. She was receiving all failing grades after fall semester at Helena High, and withdrew from all classes for a month. A friend convinced her to come to Jefferson High School in Boulder. **Ms. Glasoe** met Mr. Light, Counselor and JMG Job Specialist, who recommended she enter the JMG Program. After the first mid-term was completed, all "F's" had turned to "A's" and "B's." Without the JMG Program, **Ms. Glasoe** feels she would not have graduated.

Sheila Hogan, Career Training Institute, Program Operator for the Displaced Homemaker Program, spoke in support of the Displaced Homemakers Program, and said that it is a "safety net" program designed to help people not enter the public assistance system. Frequently, participants are older women and, through loss of a spouse, this Program allows her to enter the workforce in order to maintain possession of her home or any other assets she may have. The Program operates on a very small amount of money, but is able to do some great things.

Bill Bentley, Executive Manager, Montana Chapter of the National Electrical Contractors Association (NECA), represented employers throughout Montana who pay into the ESA who directly benefit from ESA. These employers are against diverting any of the ESA money away from the Apprenticeship and Training Program in the State of Montana. NECA has an apprenticeship program in conjunction with the International Brotherhood of Electrical Workers (IBEW) where hundreds of apprentices are trained across the State of Montana. These apprentices go to work for employers and earn a very good wage. If the registered apprenticeship program is lost, then unions lose the ability to train qualified people.

{Tape: 2; Side: B; Approx. Time Counter: 1.8 - 20}

Jerry Driscoll, AFL-CIO, spoke in favor of the Jobs for Montana's Graduates, which keeps kids from dropping out of school, and the Apprenticeship and Training Bureau. Without the Bureau, there would be no apprentices recognized as appropriately trained and able to work outside Montana.

Dan Flynn, IBEW Local 44, appealed to the Subcommittee to ask themselves, the next time they are sitting at the airport ready to get off the airplane and the mechanic is beating on the wing, "Is that mechanic an apprentice? Did he go through an apprenticeship?"; and "If he did go through an apprenticeship, was it adequately funded?" He asked that the Subcommittee support funding for the Apprenticeship and Training Program.

Donna Schulze, Plains, Montana spoke in support of the JMG Program. She knows three children, two of her own, who have been through the Program, who blossomed within the first two months of starting the Program. These three have completed the Program and are active, contributing members of society. She stated the Program prepares teens for the future in areas where traditional high school classes are lacking.

Jennifer Schulze, Bozeman, Montana, spoke on behalf of JMG. She is currently in JMG and, through the Program's classes, has gained confidence to pursue admission to MSU Bozeman.

Carolina Llamas, Deer Lodge, Montana, stated that her mother is a single parent and has been raising four children on her own. Approximately a year ago, her mother was diagnosed with a brain tumor. During this time, **Ms. Llamas** said that she was skipping school and missed 29 days. Since enrolling in JMG, she hasn't missed much school. JMG classes teach the importance of teamwork and communication skills. The students also search scholarships on the Internet, participate in job-shadowing careers of interest to the students, and practice interviewing for jobs. The students also are active in community service.

Butch Light, Guidance Counselor and JMG Job Specialist, Jefferson High School, Boulder, Montana, stated that traditional public high school does not meet the needs of all students. Career skills such as public speaking, resume writing, commercial design and the proper way to complete an application are taught at JMG. **Mr. Light** stated that if we want to lower unemployment rates, we need to teach our youth job skills to get the jobs and keep their jobs.

Loralee Robinson, State Coordinator, Jobs for Montana's

Graduates, stated that JMG is part of a national organization called Jobs for America's Graduates. The model used in Montana is the same model used in 26 other states. The model provides structure for successful programs and four-year curriculum for grades 9-12. The Program is an in-school program; kids are in the classroom usually one period a day for the entire school year. The kids do get credit toward graduation. The schools participating in JMG value it because of the statewide networking between schools, and the schools feel they could not afford to create the excellent curriculum on their own.

REP. VERONICA SMALL-EASTMAN, Lodge Grass, Montana, stated JMG is active on both the Crow and Cheyenne Reservations. Montana is the only state in the U.S. that has JMG on Reservations. The graduation rate on Reservations has increased to approximately 88% for students who participate in JMG. The benefits to our youth and the rest of society far outweigh the cost of this Program.

{Tape: 2; Side: B; Approx. Time Counter: 22 - 30.5}

{Tape: 3; Side: A; Approx. Time Counter: 0.2 - 30.5}

{Tape: 3; Side: B; Approx. Time Counter: 2.2 - 3.5}

Keith Kelly, Administrator, Unemployment Insurance Division (UI), presented handouts to the Subcommittee pertaining to the UI Division. The three main purposes of the Division are: 1) temporary wage benefits for claimants who are unemployed through no fault of their own; 2) it helps keep trained workers in the area for employers; and 3) it assists those businesses in communities by supporting some level of continued economic activity. The Division is also responsible for managing the UI Trust Fund, and overseeing the UI Tax Program at the Department of Revenue. The Division is primarily federally funded (95%). The other five percent is ESA funding. The \$90 million paid in UI benefits to Montanans in 2002 generated approximately \$180-225 million of economic activity in the community.

Mr. Kelly stated that Montana has been recognized both nationally by the private sector and federal government for innovative advancements in information technology. However, one serious federal violation involves the claimant's inability to get through to Customer Service Representatives. From January 6-10, 2003 twenty-two Helena and Billings Customer Service Representatives took 4,430 calls. Ten percent of those calls were abandoned due to the long wait. Seven hundred and eighty-nine claimants could not even get through to file a claim. These 789 people left messages at the Governor's Citizen's Advocate Office

and at the local Workforce Service Division offices. Overpayment of benefits is also an area where Montana is out of compliance with the federal government.

Mr. Kelly stated that the UI Division is proposing to establish a complete Internet claim filing system in House Bill 4. UI Division received a \$500,000 grant from the federal government for this system, and is trying to augment that with some Reed Act money to have a fully functioning Internet claim filing system. The advantage of the new system is that it will take 20% of the pressure off the current telephone system. Claimants will be able to file their claim from anywhere there is Internet access, such as their homes, local job service offices or libraries.

EXHIBIT (jch24a05)

{Tape: 3; Side: B; Approx. Time Counter: 3.6 - 30}

Jerry Keck, Administrator, Employment Relations Division (ERD), presented the Subcommittee with handouts pertaining to the Employment Relations Division. ERD is primarily responsible for a number of the statutes that govern the employment relationship in the State of Montana. ERD works positively and cooperatively with employers and employees to help resolve disputes that arise in the employment relationship through a timely, cost effective and fair resolution process.

Mr. Keck stated that approximately 35,000 workers' compensation claims are filed each year in the State of Montana. ERD assists all parties in the workers' compensation system from insurers, adjusters, medical providers, and injured workers to work their way through the maze of the workers' compensation system. When there are disputes that arise, ERD provides mediation services to try to resolve the dispute without the need for litigation. Of the 35,000 complaints filed each year, only about three percent of them result in a dispute over benefits. Before the claimant can get to the Workers' Compensation Court, they are required to file a petition for mediation. About a thousand petitions for mediation have been filed yearly over the last five years. Eighty percent of those petitions are resolved through the mediation process. Only two to three hundred benefit claims per year out of the 35,000 filed end up in a trial before the Workers' Compensation Court.

Mr. Keck explained that Decision Package 2 is a request for an automated reporting system. This DP was presented at the request of self-insured employers, workers' compensation insurers and third-party administrators in order to more fully augment the

ability of those parties to report injuries directly to ERD electronically which will save money and expedite filing of claims for injured workers. DP 2 is a one-time-only request for the automated reporting system.

In order to comply with the requested budget cuts, **Mr. Keck** presented consequences of these cuts to the Human Rights Bureau on Page 18 of Exhibit 6.

{Tape: 3; Side: B; Approx. Time Counter: 19.8 - 30.2}

CHAIRMAN FISHER asked if the Legislature could eliminate the Human Rights Program. **Mr. Keck** stated that the Program could be eliminated if that were the pleasure of the Subcommittee. It would mean that claimants in Montana would still have a claim under the State Constitution which they would file directly in State Court if there was not a provision for an administrative remedy. They would file their federal claim with the federal Equal Employment Opportunity Commission in Denver, and the federal agency would investigate that claim from Denver. If they found that the claim had merit, they would take it into the federal court.

Mr. Keck urged the Subcommittee to fund the Human Rights program at the level recommended which is actually a slight reduction from the budget in the last biennium.

Page 22 of Exhibit 6 lists the employer services provided by the Labor Standards Bureau. Page 23 lists the Education and Outreach Programs provided to employers and employees by ERD.

EXHIBIT (jch24a06)

{Tape: 4; Side: A; Approx. Time Counter: 2.9 - 18.7}

Bob Worthington, Chief Executive Officer, Montana Municipal Insurance Authority, and President, Montana Self-Insurers Association, urged approval of budget adjustments for the direct reporting process for the workers' compensation claims unit which is essential for the various providers that have to address reports to the Department of Labor. The self-insurers and other providers have worked to form a committee to work with the DOLI.

Don Jones, Attorney, Helena, Montana, stated that he recently limited his practice exclusively to the area of disability discrimination law, and noted that he is a proponent of the Human Rights Bureau (HRB). He is concerned about the proposed 30% reduction in the Human Rights Bureau. **Mr. Jones** stated that the

HRB process is a good process for resolving disputes. The investigators do a great job investigating claims of discrimination, and their findings and determinations are sound. When the process works, it keeps claims from being filed in the state courts. For claims with merit, it clearly is a less expensive way to resolve disputes.

Anita Roessmann, Attorney, Montana Advocacy Program (MAP), stated that MAP is a disability rights organization, that has six federal programs under their umbrella. **Ms. Roessmann** expressed concern about issues impinging on the access to justice of people with no financial resources. The Human Rights Bureau is one of the few places where people with no resources can get a fair and free investigation of their claims, that educates both the person bringing the claim and the person against whom a claim has been made, and also resolves matters without incurring a lot of legal costs. **Ms. Roessmann** stated that one of the valuable functions of the HRB is to educate people about the new anti-discrimination laws. She also stated that the people of Montana need a Human Rights Bureau, and appealed to the Subcommittee to continue funding the Bureau that is currently working very well.

George Wood, Executive Secretary, Montana Self-Insurers Association, spoke in support of the budget for the Employment Relations Division. **Mr. Wood** advised the Subcommittee that the Chamber of Commerce supports the budget of the Department of Labor.

Riley Johnson, National Federation of Independent Businesses (NFIB), expressed support for the budget for the Labor Standards Bureau. Of particular interest to NFIB is the ESA, which is a very important Account for small businesses. It exists through taxes employers pay, and small business employers want the money to continue funding purposes for which the fund was created.

ADJOURNMENT

Adjournment: 11:20 A.M.

REP. STANLEY (STAN) FISHER, Chairman

MARIAN COLLINS, Secretary

SF/MC

EXHIBIT (jch24aad)